

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SHAWN DRUMGOLD,	)	C.A. NO. 04-11193NG
Plaintiff	)	
	)	
v	)	
	)	
TIMOTHY CALLAHAN, ET AL.	)	
Defendant(s)	)	
	)	

**MOTION IN LIMINE RE: USE OF LATE PRODUCED DOCUMENTS WITH EXPERTS**

Now comes the Plaintiff and moves this Court to order the Defendants not to argue, introduce evidence or suggest to the jury in either the cross examination of Plaintiff's expert Dr. Michael Lyman or in Defendants' examination of their expert Melvin L. Tucker, that the expert's opinions are based upon certain reports which were produced late by the City. In support thereof, the Plaintiff says

1. Plaintiff filed a Motion for Sanction for Late Production of Documents (Docket No. 101).
2. On January 7, 2008 this Court granted Plaintiff's Motion and ordered that "the material identified in Plaintiff's Motion for Sanctions are excluded from trial".
3. The documents so identified include a two hundred and forty page Criminal Investigation Procedure Manual for February 19, 1978 and six Boston Police Department Orders dealing with procedures for use of informants.
4. The Defendants' expert, Melvin L. Tucker, specifically references the documents

which this Court ordered to be excluded from trial in his expert report. For example, at page 4 of his report, he refers to the criminal investigation procedures, as he does on pages 8 and 10. He also relies upon the Informants Procedure subject to the Court's Orders at page 14 of his report.

5. The Plaintiff's expert Dr. Lyman's report was prepared prior to the disclosure of these late produced documents and therefore he does not make reference to them. The Defendants should not be allowed to cross examine Dr. Lyman based on these late produced documents.

Wherefore the Plaintiff moves the Court to order the Defendants not to refer to the documents which have been ordered excluded from trial in connection with the examinations and cross examinations of the expert witnesses in this case.

Respectfully submitted,

By His Attorneys,

/s/ Michael Reilly

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